

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Charles C. Freeny, Jr.) Group Art Unit: 2444
Serial No.: 09/607,227) Examiner: Nguyen, Thanh T.
Filed: June 30, 2000)
For: Automated Data Delivery Systems) **Atty. Dkt. No. 2551.042**

Commissioner for Patents
Washington, D.C. 20231

**REQUEST TO CORRECT THE INVENTORSHIP AND FEE IN
NONPROVISIONAL APPLICATION -
DECLARATION (37 C.F.R. § 1.48(a))**

1. This amendment and request is to correct the incorrect naming of inventor(s) in the declaration under 37 C.F.R. § 1.48(a) as set forth and filed on January 28, 2003.
 2. Please delete Charles C. Freeny, III as an inventor of this application. See 37 C.F.R. § 1.48(a)(1).
 3. Attachments
- Attached is:
- (a) A statement from Charles C. Freeny, III that the error in inventorship occurred without deceptive intention on his part. See 37 C.F.R. § 1.48(a)(2).
 - (b) A declaration of the actual inventor as required by § 1.63 has been previously filed. See 37 C.F.R. § 1.48(a)(3).

- (c) The processing fee set forth in §1.17(i) See 37 C.F.R. § 1.48(a)(4).
- (d) Written assent of the assignee - Automated Business Companies, Inc. See 37 C.F.R. § 1.48(a)(5).
- (e) A copy of an e-mail message and a letter dated August 22, 2002 from Charles C. Freeny, Jr. (the original named inventor of this patent application) to Charles "Skip" Coddington, an attorney of record in this case. Note that the application identified by "2551-042" in Mr. Freeny's letter identifies the above-referenced patent application.
- (f) A counterclaim dated July 8, 2009 in an unrelated patent infringement lawsuit between the assignee of the above-referenced patent application and Webex Communications, Inc. regarding U.S. Patent Nos. 6,360,253; 6,999,945; and 7,016,943. The Examiner's attention is directed to paragraphs 7.1.64 - 7.1.76 alleging inequitable conduct and intent to deceive the United States Patent and Trademark Office.
- (g) An Answer to Webex Communications' counterclaim dated July 28, 2009. In particular, the Examiner's attention is directed to paragraphs 7.1.64 - 7.1.76 responding to Webex Communications' allegations.
- (h) An excerpt from Marc A. Brockhaus' deposition regarding the naming of inventors of U.S. patent numbers 6,360,253; 6,999,945; and 7,016,943.

In the letter dated August 22, 2002, Mr. Freeny requested that his son (Charles C. Freeny III) be added to the above-referenced patent application. Charles C. Freeny, III signed the "Declaration" and the "Statement of Error Without Deceptive Intent On The Part Of the Inventor(s) Omitted In

Nonprovisional Application” to be added as a co-inventor of the above-referenced patent application and such was filed on January 28, 2003. However, after subsequent investigation, it has been determined that Mr. Freeny’s August 22, 2002, letter was incorrect regarding the inventorship of the patent applications.

Mr. Freeny’s letter is being submitted with the other attached documents referred to in ¶¶(e)-(h) above out of an abundance of caution with respect to ABC’s duty of candor to the United States Patent and Trademark Office. It is believed that such documents are not material information that would need to be cited to the United States Patent and Trademark Office, but ABC is submitting such documents in good faith to eliminate any question whether or not ABC is complying with its duty of candor.

In particular, the documents are not material because, including but not limited to, they do not show:

- the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent under 35 USC § 102(e); or

- a derivation of the invention from another under 35 USC § 102(f) (see MPEP §706.02(g) and MPEP §2137 ("Derivation Requires Complete Conception By Another And Communication To The Alleged Deriver"), or
- before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it under 35 USC § 102(g)(2). See MPEP § 2138 ("To qualify as prior art under 35 U.S.C. § 102(g), however, there must be evidence that the subject matter was actually reduced to practice, in that conception alone is not sufficient."), or
- any deceptive intention on behalf of the inventor being deleted under 35 USC § 116.

Should the Examiner have any questions regarding the foregoing,
Applicant's attorney would welcome a telephonic interview with the
Examiner.

Respectfully submitted,

A handwritten signature in cursive script that reads "Marc Brockhaus". The signature is written in black ink and is positioned above a horizontal line.

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